

REMARKS

This amendment and election is in response to the Office Action, dated February 28, 2008 ("Office Action"). Following entry of the present amendment, claims 1-28 remain pending; claim 24 having been amended, and claims 25-28 having been withdrawn by virtue of the present amendment. Examination of the pending claims in view of the foregoing amendment and ensuing remarks is respectfully requested.

In the Office Action, Examiner required election among aspects of the claimed invention depicted in Groups I and II under 35 U.S.C. §121. The Groups included the following:

- I. Claims 1-23: drawn to a drug delivery molecule; and
- II. Claims 24-28: drawn to a method of synthesizing a drug delivery molecule.

Applicants hereby elect the embodiment of the instant invention described in **Group I** (claims 1-23) for prosecution on the merits. Applicants reserve the right to pursue the claims drawn to non-elected embodiments of the present invention in one or more divisional applications.

The foregoing election notwithstanding, Applicants respectfully traverse the restriction requirement and submit that it is improper. Examiner asserts that the technical feature linking groups appears to be a polymerized carboxylic acid molecular scaffold, namely poly (β -L-malic acid), but that poly (β -L-malic acid) is known in the art as evidenced by Lee, *et al.* Therefore, Examiner asserts, the technical feature linking the inventions of Group I and II does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art. In response, Applicants submit that the technical feature linking the groups is not the polymerized carboxylic acid molecular scaffold, but rather, it is the combination of the polymerized carboxylic acid molecular scaffold with the plurality of biologically active molecular modules. Group II is drawn to synthesizing Group I by utilizing a polymerized carboxylic acid molecular scaffold, and then activating the scaffold in reactions that result in the same biologically active molecular modules drawn on by Group I. Thus, Group II is drawn on a process specially adapted for the manufacture of the product Group I, extending not just to the polymerized carboxylic acid molecular scaffold, but to the combination of the scaffold with the biologically active molecular modules as well. Applicants submit that the inventions

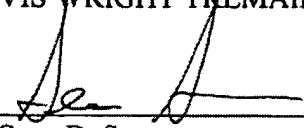
listed as Group I and II contain the same technical feature under PCT Rule 13.2, and therefore, they relate to a single inventive concept under PCT Rule 13.1.

Although Applicants maintain traversal of the restriction requirement, nonetheless, Applicants have amended claim 24 so that there is no doubt that Applicants' independent process claims of Group II include each of the limitations of the product claim 1 of Group I. Furthermore, Applicants respectfully submit that claim 1 is allowable. Therefore, Applicants respectfully submit that the claims of Group II, drawn to non-elected processes for synthesizing the product of Group I, and including all of the limitations thereof, must be considered for rejoinder in the present application.

All of the claims in the application are believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If for any reason Examiner finds the application other than in condition for allowance, Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 633-6800 to discuss the steps necessary for placing the application in condition for allowance.

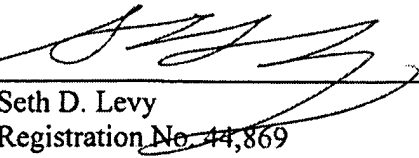
Respectfully submitted,
Julia Y. LJUBIMOVA *et al.*
DAVIS WRIGHT TREMAINE LLP

By


Sean D. Senn

Registration No. 56,747

By


Seth D. Levy

Registration No. 44,869

865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566
Phone: (213) 633-6800
Facsimile: (213) 633-6899